

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

**IN RE:  
NELSON VALENTIN PEREZ  
PAULA ESTHER CAMPOS COLON**

**DEBTOR**

**NELSON VALENTIN PEREZ  
PAULA ESTHER CAMPOS COLON**

**PLAINTIFF**

**V.**

**LUNA RESIDENTIAL II, LLC. A.K.A  
PLANET HOME LENDING, LLC., JOSE  
CARRION in the official capacity as  
Chapter 13 Trustee**

**DEFENDANTS**

**CASE NO. 21-01994-EAG**

**CHAPTER 13**

**ADV. PROC. NO.**

**DECLARATORY  
JUDGMENT, JUNIOR LIEN  
STRIP OFF AND  
DETERMINATION AND  
EXTENT OF A LIEN**

**COMPLAINT**

**TO THE HONORABLE COURT:**

Comes now, **NELSON VALENTIN PEREZ & PAULA ESTHER CAMPOS COLON**, Plaintiff herein, through the undersigned attorney, and very respectfully presents the following complaint:

**INTRODUCTION**

This complaint is an action to avoid a wholly unsecured junior mortgage encumbering the Plaintiff's property pursuant to 11 U.S.C. § 506, Bankruptcy Rule 3012 and Local Bankruptcy Rule 3015, and seeks to value real property securing the claim of LUNA RESIDENTIAL II, LLC (hereinafter "Luna"). Upon information and belief, Luna holds a second mortgage over the Plaintiff's property recorded at the property registry. This

Complaint seeks to fully avoid the second mortgage.

### **JURISDICTION**

Jurisdiction is invoked under 28 U.S.C. §157 (a), (b) (1), (b)(2) and 28 U.S.C. §1334. This proceeding is a core proceeding. If this action has any noncore elements, the Plaintiff hereby expresses consent to the entry of final judgement by a Bankruptcy Judge.

### **VENUE**

Venue is proper in this District Court under 28 U.S.C. §1408 & §1409, in as such as all the events, acts or omissions giving rise to the claims of the captioned case occurred within the territory of this jurisdictional district.

### **PARTIES**

1. Nelson Valentin Perez & Paula Esther Campos Colon hereinafter Plaintiff, is a Debtor in a Chapter 13 case under the Bankruptcy Code.
2. Co-Defendant, Luna Residential II, LLC, a.k.a Planet Home Lending, LLC., hereinafter “Luna”, upon information and belief, is a corporation with known address Planet Home Lending, LLC., 321 Research Pkwy Suite 303, Meriden, CT 06450. Upon information and belief, it is also the owner of a mortgage note allegedly encumbering Plaintiff's property, which is also property of the estate.
3. Co-defendant, Jose Carrion, is the Chapter 13 Trustee assigned to this case, hereinafter the Trustee, is brought in its official capacity and only to the extent he is necessary to pursue this complaint.

## FACTS

4. On June 29, 2021, plaintiff filed a Chapter 13 Bankruptcy petition, see Bankruptcy docket entry number (1).
5. The Plaintiff, is now, and has been at all times since this case was filed, the owner of real property, hereinafter “The Property”, known as and listed in schedule A as Two story house, second story has 3 bedrooms, 2bathrooms; first story has 3 bedrooms & one bathroom. lot 767 sm. , (hereinafter “the property”), more fully described in the tile study attached to this complaint, which we fully include by reference, hereinafter the “title study.”
6. As of the date this case was filed, the fair market value of said property was \$80,000.00, as determined by the real estate valuation attached to this complaint as exhibit A, hereinafter the “the valuation.”
7. That Luna, upon information and belief, recorded a mortgage in the property registry for the San Sebastian Property Registry, by certification entered at page (“folio”) number (“1”), book (“tomo”) (“102”), on lot number (“FINCA”) number (“2,943”), for the amount of \$“32,116.76. This junior lien will be referred, hereinafter, as “the mortgage”.
8. Upon information and belief, Plaintiffs allegedly acquired “the mortgage” sometime prior to the filing of proof of claim number 2, from Santander Financial Services, Inc. That the property is encumbered by liens seniors to the mortgage, as reflected in the title study. The claims and/or amounts owed to creditors that hold liens on the

property, senior to the mortgage, total \$128,192.49, as evidenced by proof of claims number 1.

9. Also the property is encumbered by liens hold by the Federeal Goverment in the total amount of \$6,256.28 as describe in the title study.
10. Luna's collateral consists of the Plaintiff's principal residence. As there is no equity in the real property after payment in full of the liens senior to the mortgage, the value of Luna's secured interest in the real property, as it pertains to the junior lien, is zero.

**WHEREFORE**, in view of the foregoing, the Plaintiff pray's from this Honorable Court to grant judgment in favor of the Plaintiff in the following manner:

- a. Determining the value of the real property in the amount asserted in this complaint; and
- b. Determining the unsecured status of the Luna's claim as stated above; and
- c. Determining that proof of claim number 2 be re-classified as unsecured; and
- d. Enter order instructing the Register of the Property Registry to erase from their records the mortgage note recorded on the Plaintiff's property; and
- e. Any other relief that this Honorable Court may deem appropriate.

**RESPECTFULLY SUBMITTED.**

In Sabana Grande, Puerto Rico this 8 day of December, 2021.

/s/ *Peter A. Santiago González*

PETER A. SANTIAGO GONZALEZ, ESQ

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